



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,294	01/19/2001	Carlos V. Perry JR.	06080003AA	6359

7590 12/11/2001

McGuire Woods  
Tysons Corner  
Suite 1800  
1750 Tysons Boulevard  
McLean, VA 22102-4215

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
----------	--------------

1724

DATE MAILED: 12/11/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/764,294

Applicant(s)

Perry

Examiner

Ivars Cintins

Art Unit

1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

Art Unit: 1724

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The synthetic material represented by the term "polychloride" (claim 3, line 2) is not readily apparent.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10, 11, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Jowett (U.S. Patent No. 5,997,747). The reference discloses a device comprising all of the recited structural elements (see Figs. 2 and 5; and col. 7, lines 33-40); and this device is inherently capable of being employed as a "recirculating" filter.

Art Unit: 1724

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jowett. The reference discloses the claimed invention with the exception of the material from which chamber 40 is constructed (claim 22), and the recited flange and ribs (claim 23). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct chamber 40 of the reference device from a concrete or synthetic material, since these materials are typically used in septic systems. Also, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the tank of the reference system with a conventional flange and ribs, in order to provide additional structural stability for this tank.

Claims 1, 7-9 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jowett in view of Wagner et al (U.S. Patent No. 4,543,013). Jowett discloses the claimed invention

Art Unit: 1724

with the exception of the encapsulating material. Wagner et al discloses that geotextile fabric is typically made from woven polypropylene material (see col. 3, lines 23-24 and 45-46); and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ this secondary reference material as the "geofabric" of the primary reference (see col. 7, line 36), in order to obtain the advantages disclosed by this secondary reference for the system of the primary reference.

Claims 1-3, 7-11, 14, 15 and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ball (U.S. Patent No. 5,480,561) in view of Jowett, further in view of Wagner et al. Ball discloses a recirculating filter, and teaches the use of polypropylene particles as a filtration media (see col. 4, line 3). Accordingly, this primary reference discloses the claimed invention with the exception of the recited encapsulating fabric. Jowett teaches encapsulating water treatment material within a geofabric; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to encapsulate the polypropylene particles of the Ball system within a geofabric, as suggested by Jowett, in order to facilitate handling of these particles. Also, it would have been obvious to one of ordinary skill in the art at the time the invention was

Art Unit: 1724

made to employ woven polypropylene as the "geofabric" of this modified primary reference, since Wagner et al discloses that such a material is typically used to make geotextile fabric.

Claims 4-6, 12, 13 and 16 are rejected under 35

U.S.C. 103(a) as being unpatentable over Ball, Jowett and Wagner et al as applied above, and further in view of Hirs (U.S. Patent No. 3,814,247). The modified primary reference discloses the claimed invention with the exception of the size and specific gravity of the synthetic particles, and the use of a plurality of different sized filtration materials. Hirs discloses (see col. 2, lines 19-22 and 64-65) polypropylene particles having the recited specific gravity and particle size; and further discloses the use of filtration materials having different particle sizes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the polypropylene particles of Hirs for the polypropylene particles of the modified primary reference, since these secondary reference polypropylene particles are capable of filtering water in substantially the same manner as the polypropylene particles of the modified primary reference, to produce substantially the same results. Also, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of the modified primary reference with an additional layer of

Art Unit: 1724


different filtration material, as further suggested by Hirs, in order to provide additional purification for the liquid undergoing treatment in this modified primary reference system.

Ralston (U.S. Patent No. 2,278,488) discloses a similar water treating apparatus comprising particulate treatment material enclosed within a fabric container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 9:30 AM to 6:00 PM.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
**Ivars C. Cintins**  
**Primary Examiner**  
**Art Unit 1724**

I. Cintins  
December 9, 2001